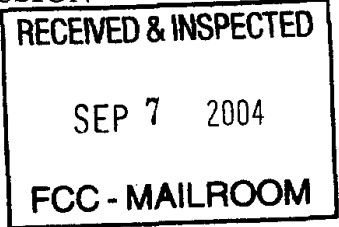


BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554



In the matter of)
Request for Review by the Anchorage)
School District of Decision of)
Universal Service Administrator)

CC Docket No. 02-6

REQUEST FOR REVIEW

I. STATEMENT OF PARTY'S INTEREST IN THE MATTER PRESENTED FOR REVIEW.

The Anchorage School District (the "ASD") appeals the decision of the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company ("USAC") denying in full Funding Request Numbers 1038607, 1038625, 1038668, 1038678, and 1038687 for the Funding Year July 1, 2003 – June 30, 2004. The ASD is an interested party as the applicant and the billing entity with regard to the matter presented for review. The following identifies information pertinent to this Request for Review:

BILLED ENTITY NAME:	ANCHORAGE SCHOOL DISTRICT
BILLED ENTITY NO.:	145553
471 APPLICATION NO.:	359931
FORM IDENTIFIER:	ASD2003-2004
DATE OF FCDL:	December 30, 2003
DATE OF ADMINISTRATOR'S	
DECISION ON APPEAL:	July 9, 2004

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II. SUMMARY.

The ASD requested funding under the schools and libraries universal support mechanism for services that providers agreed to furnish the ASD during Funding Year July 1, 2003 – June 30, 2004, pursuant to signed agreements to extend the ASD's existing contracts with the respective service providers. The SLD denied the ASD's requests for funding, after Initial

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Review, for the stated reason that the ASD had failed to file an establishing FCC Form 470 for the Funding Year. This reason for denial was in error because the ASD had posted an establishing FCC Form 470 on January 30, 1998. At that time, the ASD conducted a competitive solicitation that notified all prospective service providers of the terms of the contracts, including the extension clause. Consequently, a new FCC Form 470 was not required for the Funding Year.

On appeal, the SLD denied the ASD's requests for funding for the reason that the ASD had failed to respond timely to two requests for information. This reason for denial was in error because the ASD had responded to the requests for information and, indeed, had previously provided the SLD with information sufficient to permit the SLD to determine, at the time that it made its initial decision, that each of the five FRNs was eligible for funding.

III. QUESTIONS PRESENTED FOR REVIEW.

The questions presented for review are:

1. Whether the ASD filed an FCC Form 470 to support the requests for funding in the Funding Year.
2. Whether the ASD timely responded to SLD requests for information dated October 26, 2003 and November 7, 2003.
3. Whether on the date the SLD made its initial determination, the SLD had sufficient information to enable it to determine the eligibility of the ASD's funding requests and whether the subject FRNs were eligible for funding.

The facts described below demonstrate that each of these questions must be answered in the affirmative. The SLD erred when it denied funding for the five FRNs that are the subject of this appeal. Consequently, the ASD requests that the FCC grant this Request for Review.

IV. STATEMENT OF RELEVANT, MATERIAL FACTS.

In the following sections of this filing, the ASD describes the SLD decisions regarding this matter and the facts relevant to the ASD's application and eligibility for funding. The facts demonstrate that the SLD had sufficient information at the time of its initial decision to determine that the subject five FRNs were eligible for funding.

A. The SLD's Decisions.

The ASD timely filed its FCC Form 471 for the Funding Year July 1, 2003 through June 30, 2004 (the "Funding Year").¹ The ASD requested funding in the pre-discount, aggregate amount of \$2,674,695.96 under Funding Request Numbers ("FRNs") 1038607, 1038625, 1038668, 1038678, and 1038687. On December 30, 2003, the SLD denied funding for *each* FRN for the following stated reason:

Funding Commitment Decision: \$0.00 – 470 Not Filed

Funding Commitment Decision Explanation: The FRN references services that require a posting of a 470 for this Funding Year.²

The ASD timely appealed the decision to the SLD with regard to all five FRNs.³ The SLD issued its Decision on Appeal on July 9, 2003, denying funding in full for each FRN.⁴ In its decision, the SLD acknowledged that the ASD had identified FCC Form 470 #587650000001170 as the establishing FCC Form 470 for the subject application (the "Establishing Form 470") and that the ASD had documented specific language in the RFP issued in connection with the Establishing Form 470 that expressly provided for contract extensions.

¹ See FCC Form 471 Application No. 359951; see also the SLD's FCC Form 471 Receipt Acknowledgement Letter, dated February 14, 2003.

² Attachment 1, Funding Commitment Decision Letter, dated December 30, 2003 (the "FCDL").

³ Attachment 2, Appeal Letter, dated January 12, 2003 (the "Appeal Letter"). The time for filing an appeal to the SLD was sixty days. 47 CFR §54.719(a).

⁴ Attachment 3, Administrator's Decision on Appeal, dated July 9, 2004 (the "Decision on Appeal").

The SLD further acknowledged that the ASD had submitted the agreements signed by the ASD and its service providers in 2003 to extend their respective contracts for the term of the Funding Year.⁵

Nonetheless, the SLD denied funding on the basis that the ASD “violated the seven (7) day rule request for documentation.”⁶ The SLD stated:

During the Initial Review, the SLD requested on October 26, 2003 and November 7, 2003 a copy of the original contracts or of the RFP for verification of inclusion of the extension clause. As of the date of the Funding Commitment Decision Letter (FCDL), SLD had not received a response to the requests for supporting documentation. Consequently, the SLD was unable to determine the eligibility of the funding requests and the application was denied. On appeal, you fail to provide evidence that SLD erred in its initial determination. Consequently, the appeal is denied.

As explained in the following sections of this filing, contrary to the SLD’s findings, the ASD filed a valid establishing FCC Form 470, responded timely to the SLD’s requests for information, and provided documentation demonstrating that the subject FRNs were eligible for funding.

B. The ASD Filed an Establishing FCC Form 470.

The basis for the SLD’s initial determination on December 30, 2003 to deny all of the ASD’s funding requests was that the ASD had not filed an FCC Form 470 for the Funding Year. The ASD directly addressed that issue on appeal to the SLD.

The ASD explained that it had posted an FCC Form 470 relating to the Funding Year, the Establishing Form 470 posted on January 30, 1998.⁷ The ASD further explained that the ASD

⁵ Attachment 3, Decision on Appeal at 1.

⁶ Attachment 3, Decision on Appeal at 2.

⁷ Attachment 2, Appeal Letter at 1. A copy of the Establishing Form 470 is attached as Attachment 4. The Form 470 was posted on January 30, 1998. As a result, the allowable contract date was February 27, 1998. The ASD did not award contracts pursuant to the RFP and the Establishing Form 470 until March 23, 2003, more than 28 days after the posting of the Establishing Form 470. See footnote 25.

had issued a request for proposals (the "RFP") in connection with the Establishing Form 470 that expressly provided that the term of a contract resulting from the RFP would be for a minimum of five years and that the contract may be voluntarily extended upon agreement of the ASD and the competitors selected as a result of the RFP.⁸ The ASD attached a copy of the relevant language from the RFP as documentation of the notice provided to competitors prior to award of the multi-year contract.⁹ The ASD also attached copies of executed contracts for the contract extension year, the Funding Year.¹⁰ These documents had been provided to the SLD prior to the FCDL.

In addition, in response to a request by the SLD on appeal, the ASD provided the SLD with copies of the entire RFP, all competitor proposals submitted in response to the RFP, as well as other documentation.¹¹

Consequently, in its Decision on Appeal, the SLD acknowledged that the ASD had identified the Establishing Form 470 and that the ASD had submitted the contract extension provisions of the RFP underlying the FCC Form 470, as well as signed contracts evidencing those extensions.¹²

Nonetheless, the SLD denied funding for the five FRNs based on its conclusion that the ASD had failed to respond to SLD requests for information dated October 26, 2003 and November 7, 2003 within seven days or at any time prior to December 30, 2003, the date of the

⁸ Attachment 2, Appeal Letter at 1, referring to Request for Proposal – "Universal Service Fund Communications Project," issued January 15, 1998.

⁹ Attachment 2, at 2. The contract term language specified in the RFP, stated: "TERM OF CONTRACT. The Contract shall continue in effect for a minimum period of five (5) years. . . The term of the Contract may be extended upon mutual agreement of the District and the selected Proposer."

¹⁰ Attachment 2, at 3-6.

¹¹ See Attachment 5, Letter from Duane Moran to Josephine Farkas, dated June 17, 2004. The voluminous items referred to in the Letter are not filed herewith.

¹² Attachment 3, Decision on Appeal at 1.

FCDL. The SLD described the ASD's failure to respond to the requests for information as the reason the SLD was unable to determine the eligibility of the ASD's funding requests.

The SLD's decision is in error because the facts discussed above demonstrate that the SLD had information prior to the FCDL to determine that the ASD's FRNs were eligible for funding. The SLD had information showing: that the ASD had posted an FCC Form 470 on January 30, 1998 to solicit competition for multi-year contracts; that the detailed RFP issued in connection with the Establishing Form 470 had included notice to potential competitors of the possibility of voluntary extensions under the competitive solicitation; and that the ASD had exercised the extension provision by entering into signed agreements with its service providers to extend the ASD's five year contracts for an additional one year, the Funding Year.

The FCC has established that, "for a contract that has been competitively bid through the FCC Form 470 application process, no reposting of the contract is necessary before a renewal option is exercised."¹³ The FCC concluded that, "permitting a school or library to commit to a long-term contract after participating in the competitive bidding process does not compromise the benefits derived from competition. As long as all providers have had the opportunity to compete for the same contract, schools or libraries can enter into renewable contracts of any length or form, as permitted by state law."¹⁴

All competitors had the opportunity to compete for the ASD's contracts. As identified in the relevant language of the RFP, the initial minimum term of the contract was five years and was subject to renewal.¹⁵ Thus, the contract renewal for the Funding Year was the subject of a

¹³ In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, 15 F.C.C.R. 6732, 1999 WL 680424, at para. 12 (Rel. Sept. 1, 1999) (the "Service Order").

¹⁴ Id. at para. 6.

¹⁵ When the ASD filed the Establishing Form 470 in January 1998, the FCC Form 470 did not include a section to describe renewal provisions. Nonetheless, all competitors had notice of the renewal provision because the ASD identified the ASD website address for the RFP on its

competitive bidding process and the SLD had information from which it could have concluded that the ASD's FRNs were eligible for funding.

Consequently, the SLD erred in its determination that the ASD had not filed an FCC Form 470 for the Funding Year. A new FCC Form 470 was not required for the ASD to enter into the contract extension.

C. The ASD Timely Provided Information to the SLD.

On appeal, after the ASD had established that its FRNs were eligible for funding because the ASD had posted the Establishing FCC Form 470 on January 30, 1998, thereby notifying all potential competitors of the contract term and renewal option, the SLD added an additional reason for denying funding for the FRNs. It concluded that it had been unable to make an eligibility determination at the time of the FCDL because the ASD had failed timely to provide "a copy of the original contracts or of the RFP for verification of inclusion of the extension clause" in response to requests for information.¹⁶ The SLD held that the ASD had violated the seven-day rule.

The SLD erred in its determination that the ASD had failed timely to respond to requests for information from the SLD dated October 26, 2003 and November 7, 2003. The ASD had timely provided documentation—the relevant RFP provision—to verify that the extension clause was included in the RFP. In addition, the SLD erred in its determination that the ASD failed timely to respond to an October 26, 2003 request for information because ASD never received such a request.

Establishing Form 470. The current FCC Form 470 includes a section for description of multi-year contract terms and renewal provisions at Item 13.

¹⁶ Attachment 3, Decision on Appeal at 2.

1. The ASD did not Receive any Request for Information Dated October 26, 2003.

The SLD's Decision on Appeal states that SLD issued a request for information to the ASD on October 26, 2003. The ASD never received any request for information from SLD dated October 26, 2003.¹⁷ Thus, the SLD erred in its decision that the ASD violated the seven-day rule with regard to the purported October 26, 2003 SLD request for information.

2. The ASD Provided Information Responsive to Requests for Information Dated October 29, 2003 and November 7, 2003.

While ASD has no record of receipt of any request for information dated October 26, 2003, ASD did receive a request for information dated October 29, 2003 from Jesse Johnson of the SLD's Program Integrity Assurance team. That request stated: "Please provide a copy of the original contract, and any applicable contract extensions. [sic] and/or the RFP indicating the terms and extensions if available[.]"¹⁸

ASD received an identical request for information dated November 7, 2003.¹⁹ On appeal, the SLD described its requests for information as requests for "a copy of the original contracts or of the RFP for verification of inclusion of the extension clause."²⁰

The ASD had provided the SLD, at least two times, with documentary evidence that the RFP included the extension clause. The ASD first sent the SLD a copy of the RFP provisions that defined the term of the contract and the extension clause on August 18, 2003.²¹ At that time, the ASD also sent SLD copies of contracts executed by each of ASD's service providers

¹⁷ Attachment 13, Affidavit of Duane Moran.

¹⁸ Attachment 6, Email from Jesse Johnson to Duane Moran dated October 29, 2003.

¹⁹ Attachment 7, Email from Jesse Johnson to Duane Moran dated November 7, 2003.

²⁰ Attachment 3, Decision on Appeal at 2 (emphasis added).

²¹ Attachment 8, Letter from Duane Moran to Jesse Johnson dated August 18, 2003.

(relating to the subject FRNs) pursuant to which ASD and the service providers agreed to extend their respective contracts for the Funding Year.²²

The ASD sent these same documents to SLD again on or about September 29, 2003.²³ Thus, at the time of the October 29, 2003 and November 7, 2003 requests for information, SLD, in fact, had information in its file to verify, one, that the ASD's RFP included an extension clause and, two, that the ASD had signed contracts for the Funding Year, as result of exercise of the extension clause.

Consequently, the SLD erred when it denied funding on the basis that the ASD had failed timely to provide the SLD with a copy of the RFP for verification of inclusion of the extension clause. At the time of the FCDL, the SLD had the information necessary to determine that the extension clause was included as part of the Establishing Form 470 because the clause was detailed in the RFP referenced on the Establishing Form 470.

The SLD apparently believed that the extension clause was too vague concerning the terms of the extension provision and, thus, required the posting of a new FCC Form 470.²⁴ In response, the ASD advised the SLD that the ASD's Purchasing Director had confirmed that the extension clause utilized in the RFP was in accord with common procurement practice of the ASD and was in full compliance with state purchasing requirements.²⁵

²² Attachment 8, at 3-6. The agreements provide that the terms and conditions for the additional one-year term were as provided in the RFP and the respective proposals of the providers.

²³ Attachment 13, Affidavit of Duane Moran. See also Attachment 9, Email from Jesse Johnson to Duane Moran dated September 29, 2003, acknowledging receipt of fax. Duane Moran also had several times affirmatively requested whether the SLD wanted a full copy of the RFP and the service provider proposals. The SLD responded that it did not. Attachment 13, Affidavit of Duane Moran.

²⁴ Attachment 9, Email from Jesse Johnson to Duane Moran dated September 29, 2004.

²⁵ Attachment 9, Email from Duane Moran to Jesse Johnson dated October 8, 2004. In an October 14, 2003 request for information, the SLD advised that the ASD's original contract had been awarded prior to July 11, 1997 and, thus, any renewal of the contract required the posting of

In any event, in addition to having previously provided documentation to verify inclusion of the extension clause in the RFP, and confirming that the clause was in compliance with state purchasing requirements, ASD also responded directly to the October 29, 2003 and November 7, 2003 requests for information. Duane Moran, for the ASD, immediately responded to each of the requests for information by reply email to Jesse Johnson.²⁶ In his November 7, 2003 response, Moran explained that he was attempting to obtain additional confirmation from the ASD's Purchasing Department.²⁷

Duane Moran then arranged with Jesse Johnson to conduct a telephone conference call with the ASD's Purchasing Director, Pam Chenier, on November 17, 2003 in a further effort to provide any additional information to the SLD.²⁸ Jesse Johnson, for the SLD, expressly agreed to participate in the conference call.²⁹ Thus, the ASD reasonably understood that the SLD had granted additional time for the ASD to provide additional information to the SLD.

During the conference call, Pam Chenier confirmed to Jesse Johnson that the extension clause included in the RFP was consistent with the ASD's customary procurement contracting practice and that the clause was in compliance with local and state contract procurement law.³⁰

a new FCC Form 470. Attachment 11, Fax from Jesse Johnson do Duane Moran dated October 14, 2004. To confirm that the ASD had awarded the original contracts on March 23, 1998, pursuant to the RFP, the ASD included a copy of the March 23, 1998 minutes from an Anchorage School Board meeting evidencing the original award of contracts to the ASD's service providers by School Board action on March 23, 1998. Attachment 11, Email from Duane Moran to Jesse Johnson dated October 21, 2004.

²⁶ Attachment 13, Affidavit of Duane Moran.

²⁷ Attachment 12, Email from Duane Moran to Jesse Johnson dated November 7, 2004. While ASD does not have a copy of Moran's email dated October 29, 2004, that email should be on record in the SLD's file.

²⁸ Attachment 13, Affidavit of Duane Moran.

²⁹ Attachment 13, Affidavit of Duane Moran.

³⁰ Attachment 14, Affidavit of Pam Chenier.

The ASD requested whether Johnson wanted a full copy of the RFP and all of the proposals submitted in response to the RFP. Johnson said no.³¹

Consequently, the SLD's conclusion that the ASD violated the seven-day rule is in error. The ASD did not violate the seven-day rule, first, because it had previously provided documentation to the SLD that permitted the SLD to verify inclusion of the contract extension language in the RFP. Second, after receipt of the October 29, 2003 and November 7, 2003 requests for information, the ASD communicated with the SLD and the two parties expressly agreed to participate in a telephone conference call on November 17, 2003 to discuss the information requests. Consequently, the ASD was permitted a reasonable extension of time to additionally address the requests for information with the SLD through the conference call with the ASD.

D. The SLD had Sufficient Information on the Date of the FCDL to Determine that ASD's FRNs were Eligible for Funding.

The SLD's Decision on Appeal indicates that the SLD concluded that the voluntary extension language set forth in the ASD's original RFP was not sufficiently specific to permit the ASD to rely on the RFP and the related Establishing Form 470 to renew the contracts with its service providers for one additional year, the Funding Year. The SLD apparently concluded that, given that ambiguity, the ASD had failed to supply documentation of a competitive solicitation upon which the ASD could rely for the Funding Year. Thus, the ASD should have filed a new FCC Form 470.

The SLD's decision was in error because the contract extension language in the RFP reasonably notified all potential competitors of the terms of the solicitation and, thereby, provided all competitors with the opportunity to compete for the same contract. The RFP and

³¹ Attachment 13, Affidavit of Duane Moran.

the Establishing Form 470 demonstrate that the ASD conducted a competitive bidding process in 1998. Thus, the ASD did not need to file a new FCC Form 470 in order to extend the terms of its service provider contracts for the Funding Year.³²

Beginning with the FCC Form 470 for the July 1, 2000-June 30, 2001 funding year, the FCC Form 470 included a specific section (Item 13) for an applicant to identify whether the applicant intends to enter into a multi-year contract or a contract featuring an option for voluntary extension based on the posting. The revised Form includes a space for an applicant to describe such provisions, "including the likely timeframes".

The SLD has posted program guidelines to advise applicants that the description of multi-year and renewable contract solicitations should specify the contract and renewal timeframes. The SLD describes the "best practice:"

As a best practice, the applicant may provide a range of years in Item 13 on its Form 470, such as 'seeking a 3- to 5-year contract' for a multi-year contract or 'seeking three 1-year contract extensions' as terms for voluntary extensions.³³

However, the SLD's guidelines also expressly provide that an applicant's intent to enter into a multi-year contract or a contract that includes voluntary extensions also may be described in an RFP.³⁴ The guidelines explain that an applicant must post a new Form 470, and consider all bids received, unless voluntary extensions were indicated in Item 13 of the Form 470 or in the RFP.³⁵

³² See Service Order, 15 F.C.C.R. 6732, at paras. 6, 12.

³³ See www.sl.universalservice.org/reference/contract_guidance.asp (Multi-Year Contracts and Contract Featuring Voluntary Extensions).

³⁴ www.sl.universalservice.org/reference/contract_guidance.asp (Multi-Year Contracts and Contract Featuring Voluntary Extensions) ("To comply with FCC competitive bid process, the applicant should indicate in its RFP and/or Item 13 on the Form 470 it intent to enter into a multi-year contract for service or a contract that includes voluntary extensions").

³⁵ www.sl.universalservice.org/reference/contract_guidance.asp (Multi-Year Contracts and Contract Featuring Voluntary Extensions).

Consequently, while the ASD's Establishing Form 470 did not include a description of the voluntary extension on the Form itself, inclusion of the extension language in the RFP was sufficient under the SLD's program guidelines and as a matter of practice to notify all potential competitors of the terms of the competitive solicitation; particularly, because at the time of the ASD Establishing Form 470, the Form did not include an item for the description of the contract term and renewal clauses.

The SLD appears to have determined that the ASD Establishing Form 470 and RFP did not comply with the SLD's current "best practices" regarding the description of renewal provisions. This is indicated also by the SLD's advice in September 2004 that SLD considered the ASD's RFP extension language too vague. Consequently, the SLD apparently concluded that the ASD's RFP language was insufficient to permit ASD to extend its contracts based on the original competitive solicitation.

The SLD's determination is in error, first, because the current guidance provided by the SLD regarding the level of detail required is not provided as a competitive bidding process requirement, but a description of best practices only. Second, the SLD's current guidance, and its desire to apply more strict rules to competitive solicitations for renewable contracts, should not have been applied to find invalid a detailed, competitive solicitation that reasonably notified potential competitors of the terms of the solicitation at the time it was conducted.

Third, the ASD's RFP extension clause was consistent with the procurement practices of the ASD when the solicitation was issued and, more important, was in compliance with all applicable local and state procurement law. The ASD provided information to the SLD regarding the compliance of the RFP with applicable law, as described above.

Finally, the ASD utilized the extension clause to extend its contracts for one year only. Any potential competitor in 1998 reasonably would expect the extension clause to permit renewal for a minimum one-year period. ASD and its service providers have made no effort to use the extension provision to undermine competition by extending the original contracts indefinitely. To the contrary, the ASD filed a new FCC Form 470 and conducted a request for proposal solicitation for the 2004 Funding Year.

Consequently, the SLD had sufficient information as of the date of the FCDL to determine that the ASD had conducted a competitive solicitation in 1998 to obtain multi-year contracts that included the possibility of an extension of the contract term. The extension language reasonably apprised all potential competitors of the terms of the solicitation and permitted them to compete for the ASD's contracts.

The SLD also had sufficient information to determine that ASD had posted the Establishing Form 470 on January 30, 1998 in connection with the RFP. By reference to the RFP, the Establishing 470 provided adequate notice to potential competitors of the terms of the solicitation. In addition, the SLD had documentation demonstrating that the ASD had executed contract extension agreements with its service providers prior to the date the ASD submitted its FCC Form 471.

Consequently, the SLD had adequate information to determine that the ASD's FRNs were eligible for funding because the ASD was not required to post a new FCC Form 470 for the extended contract year, the Funding Year.

V. STATEMENT OF THE RELIEF SOUGHT.

For the reasons set forth in this filing, the ASD requests that the FCC grant this Request for Review and grant the ASD's funding requests under each of the subject five FRNs.

DATED at Anchorage, Alaska this 3rd day of September, 2004.

JERMAIN, DUNNAGAN & OWENS, P.C.
Counsel for Anchorage School District

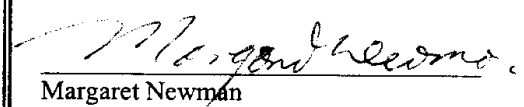
By: 

Mark P. Melchert
Alaska Bar No. 9212123

Certificate of Service

The undersigned certifies that on the
3rd day of September, 2004,
a true and correct copy of the foregoing
was served by U.S. Mail, postage
prepaid on the following:

Letter of Appeal
Schools and Libraries Division
Box 125 – Correspondence Unit
80 South Jefferson Road
Whippany, NJ 07981


Margaret Newman

LAW OFFICES OF
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FUNDING COMMITMENT DECISION LETTER

(Funding Year 2003: 07/01/2003 - 06/30/2004)

December 30, 2003

ANCHORAGE SCHOOL DISTRICT
Duane Moran
5530 East Northern Lights Blvd. Suite 21
ANCHORAGE, AK 99504

Re: Form 471 Application Number: 359931
Funding Year 2003: 07/01/2003 - 06/30/2004
Billed Entity Number: 145553
Applicant's Form Identifier: ASD2003-2004

Thank you for your Funding Year 2003 E-rate application and for any assistance you provided throughout our review. Here is the current status of the funding request(s) featured in the Funding Commitment Report at the end of this letter.

- The amount, \$1,310,601.02 is "Denied".

Please refer to the Funding Commitment Report on the page following this letter for specific funding request decisions and explanations.

NEW FOR FUNDING YEAR 2003

The Important Reminders and Deadlines immediately preceding this letter are provided to assist you throughout the application process.

NEXT STEPS

- Review technology planning requirements
- Review CIPA Requirements
- File Form 486
- Invoice the SLD using the Form 474 (service providers) or Form 472 (Billed Entity)

FUNDING COMMITMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Report for the Form 471 application cited above. The enclosed report includes a list of the Funding Request Number(s) (FRNs) from your application. The SLD is also sending this information to your service provider(s) so preparations can be made to begin implementing your E-rate discount(s) upon the filing of your Form 486. Immediately preceding the Funding Commitment Report, you will find a guide that defines each line of the Report.

TO APPEAL THIS DECISION:

If you wish to appeal the decision indicated in this letter, your appeal must be POSTMARKED within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and e-mail address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify which Funding Commitment

Decision(s) you are appealing. Indicate the relevant funding year and the date of the FCDL. Your letter of appeal must also include the Billed Entity Name, the Form 471 Application Number, and the Billed Entity Number from the top of your letter.

3. When explaining your appeal, copy the language or text from the Funding Commitment Report that is at the heart of your appeal, to allow the SLD to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep copies of your correspondence and documentation.
4. Provide an authorized signature on your letter of appeal.

If you are submitting your appeal on paper, please send your appeal to: Letter of Appeal, Schools and Libraries Division, Box 125 - Correspondence Unit, 80 South Jefferson Road, Whippany, NJ 07981. Additional options for filing an appeal can be found in the "Appeals Procedure," posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We encourage the use of either the e-mail or fax filing options.

While we encourage you to resolve your appeal with the SLD first, you have the option of filing an appeal directly with the Federal Communications Commission (FCC). You should refer to CC Docket No. 02-6 on the first page of your appeal to the FCC. Your appeal must be POSTMARKED within 60 days of the above date on this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. If you are submitting your appeal via United States Postal Service, sent to: FCC, Office of the Secretary, 445 12th Street SW, Washington, DC 20554. Further information and options for filing an appeal directly with the FCC can be found in the "Appeals Procedure" posted in the Reference Area of the SLD web site or by contacting the Client Service Bureau. We strongly recommend that you use either the e-mail or fax filing options.

NOTICE ON RULES AND FUNDS AVAILABILITY

Applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Universal Service Support Mechanism. Applicants who have received funding commitments continue to be subject to audits and other reviews that the SLD and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with all such requirements. The SLD may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by the SLD, the applicant, or the service provider. The SLD, and other appropriate authorities (including but not limited to USAC and the FCC), may pursue enforcement actions and other means of recourse to collect erroneously disbursed funds. The timing of payment of invoices may also be affected by the availability of funds based on the amount of funds collected from contributing telecommunications companies.

Schools and Libraries Division
Universal Service Administrative Company

A GUIDE TO THE FUNDING COMMITMENT REPORT

A report for each E-rate funding request from your application is attached to this letter. We are providing the following definitions for the items in that report.

FORM 471 APPLICATION NUMBER: The unique identifier assigned to a Form 471 application by the SLD.

FUNDING REQUEST NUMBER (FRN): A Funding Request Number is assigned by the SLD to each Block 5 of your Form 471 once an application has been processed. This number is used to report to Applicants and Service Providers the status of individual discount funding requests submitted on a Form 471.

FUNDING STATUS: Each FRN will have one of the following definitions:

1. An FRN that is "Funded" will be approved at the level that the SLD determined is appropriate for that item. The funding level will generally be the level requested unless the SLD determines during the application review process that some adjustment is appropriate.
2. An FRN that is "Not Funded" is one for which no funds will be committed. The reason for the decision will be briefly explained in the "Funding Commitment Decision," and amplification of that explanation may be offered in the section, "Funding Commitment Decision Explanation." An FRN may be "Not Funded" because the request does not comply with program rules, or because the total amount of funding available for this Funding Year was insufficient to fund all requests.
3. An FRN that is "As Yet Unfunded" reflects a temporary status that is assigned to an FRN when the SLD is uncertain at the time the letter is generated whether there will be sufficient funds to make commitments for requests for Internal Connections at a particular discount level. For example, if your application included requests for discounts on both Telecommunications Services and Internal Connections, you might receive a letter with funding commitments for your Telecommunications Services funding requests and a message that your Internal Connections requests are "As Yet Unfunded." You would receive one or more subsequent letters regarding the funding decision on your Internal Connections requests.

SERVICES ORDERED: The type of service ordered from the service provider, as shown on Form 471.

SPIN (Service Provider Identification Number): A unique number assigned by the Universal Service Administrative Company to service providers seeking payment from the Universal Service Fund for participating in the universal service support mechanisms. A SPIN is also used to verify delivery of services and to arrange for payment.

SERVICE PROVIDER NAME: The legal name of the service provider.

CONTRACT NUMBER: The number of the contract between the eligible party and the service provider. This will be present only if a contract number was provided on Form 471.

BILLING ACCOUNT NUMBER: The account number that your service provider has established with you for billing purposes. This will be present only if a Billing Account Number was provided on Form 471.

EARLIEST POSSIBLE EFFECTIVE DATE OF DISCOUNT: The first possible date of service for which the SLD will reimburse service providers for the discounts for the service.

CONTRACT EXPIRATION DATE: The date the contract expires. This will be present only if a contract expiration date was provided on Form 471.

SITE IDENTIFIER: The Entity Number listed in Form 471, Block 5, Item 22a will be listed. This will appear only for "site specific" FRNs.

ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE RECURRING CHARGES: Eligible monthly pre-discount amount approved for recurring charges multiplied by number of months of recurring service provided in the funding year.

ANNUAL PRE-DISCOUNT AMOUNT FOR ELIGIBLE NON-RECURRING CHARGES: Annual eligible non-recurring charges approved for the funding year.

PRE-DISCOUNT AMOUNT: Amount in Form 471, Block 5, Item 23I, as determined through the application review process.

DISCOUNT PERCENTAGE APPROVED BY THE SLD: This is the discount rate that the SLD has approved for this service.

FUNDING COMMITMENT DECISION: This represents the total amount of funding that the SLD has reserved to reimburse service providers for the approved discounts for this service for this funding year. It is important that you and the service provider both recognize that the SLD should be invoiced and the SLD may direct disbursement of discounts only for eligible, approved services actually rendered.

FUNDING COMMITMENT DECISION EXPLANATION: This entry may amplify the comments in the "Funding Commitment Decision" area.

FUNDING COMMITMENT REPORT

Form 471 Application Number: 359931
Funding Request Number: 1038607 Funding Status: Not Funded
Services Ordered: Telecommunications Service
SPIN: 143002683 Service Provider Name: ACS of Anchorage, Inc.
Contract Number: BM2439798
Billing Account Number: N/A
Earliest Possible Effective Date of Discount: 07/01/2003
Contract Expiration Date: 06/30/2004
Annual Pre-discount Amount for Eligible Recurring Charges: \$1,780,044.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$77,932.00
Pre-discount Amount: \$1,857,976.00
Discount Percentage Approved by the SLD: N/A
Funding Commitment Decision: \$0.00 - 470 Not Filed
Funding Commitment Decision Explanation: The FRN references services that require a posting of a 470 for this Funding Year.

Funding Request Number: 1038625 Funding Status: Not Funded
Services Ordered: Telecommunications Service
SPIN: 143002697 Service Provider Name: Matanuska Tel. Assn. Inc.
Contract Number: BM2439798
Billing Account Number: N/A
Earliest Possible Effective Date of Discount: 07/01/2003
Contract Expiration Date: 08/15/2004
Annual Pre-discount Amount for Eligible Recurring Charges: \$312,624.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$8,048.00
Pre-discount Amount: \$320,672.00
Discount Percentage Approved by the SLD: N/A
Funding Commitment Decision: \$0.00 - 470 Not Filed
Funding Commitment Decision Explanation: The FRN references services that require a posting of a 470 for this Funding Year.

Funding Request Number: 1038668 Funding Status: Not Funded
Services Ordered: Telecommunications Service
SPIN: 143001199 Service Provider Name: GCI Communications Corp.
Contract Number: BM2439798
Billing Account Number: N/A
Earliest Possible Effective Date of Discount: 07/01/2003
Contract Expiration Date: 06/30/2004
Annual Pre-discount Amount for Eligible Recurring Charges: \$45,702.96
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$45,702.96
Discount Percentage Approved by the SLD: N/A
Funding Commitment Decision: \$0.00 - 470 Not Filed
Funding Commitment Decision Explanation: The FRN references services that require a posting of a 470 for this Funding Year.

Funding Request Number: 1038678 Funding Status: Not Funded
Services Ordered: Internet Access
SPIN: 143001199 Service Provider Name: GCI Communications Corp.
Contract Number: BM2439798
Billing Account Number: N/A
Earliest Possible Effective Date of Discount: 07/01/2003
Contract Expiration Date: 06/30/2004
Annual Pre-discount Amount for Eligible Recurring Charges: \$400,008.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$400,008.00
Discount Percentage Approved by the SLD: N/A
Funding Commitment Decision: \$0.00 - 470 Not Filed
Funding Commitment Decision Explanation: The FRN references services that require a posting of a 470 for this Funding Year.

FUNDING COMMITMENT REPORT

Form 471 Application Number: 359931
Funding Request Number: 1038687 Funding Status: Not Funded
Services Ordered: Telecommunications Service
SPIN: 143000142 Service Provider Name: ACS Wireless, Inc.
Contract Number: BM2439798
Billing Account Number: N/A
Earliest Possible Effective Date of Discount: 07/01/2003
Contract Expiration Date: 06/30/2004
Annual Pre-discount Amount for Eligible Recurring Charges: \$50,337.00
Annual Pre-discount Amount for Eligible Non-recurring Charges: \$.00
Pre-discount Amount: \$50,337.00
Discount Percentage Approved by the SLD: N/A
Funding Commitment Decision: \$0.00 - 470 Not Filed
Funding Commitment Decision Explanation: The FRN references services that require a
posting of a 470 for this Funding Year.

IMPORTANT REMINDERS & DEADLINES

Date: December 30, 2003
471 : 359931
BEN : 145553

The following information is provided to assist you throughout the application process. We recommend that you keep it in an easily accessible location and that you share it with the appropriate members of your organization.

FORM 486 DEADLINE - The Form 486 must be postmarked no later than 120 days after the Service Start Date you report on the Form 486 or no later than 120 days after the date of the Funding Commitment Decision Letter, whichever is later. If you are required to have a Technology Plan, you must indicate the SLD Certified Technology Approver who approved your plan and you must retain documentation of your monitoring of the progress toward your stated goals.

CHILDREN'S INTERNET PROTECTION ACT (CIPA) - If FY2003 is your Third Funding Year for the purposes of CIPA and you apply for Internet Access or Internal Connections, you must be in compliance with CIPA and cannot request a waiver. The Supreme Court may issue an opinion in July 2003 changing the CIPA requirements - watch the SLD web site.

INVOICE DEADLINE - Invoices must be postmarked no later than 120 days after the last date to receive service - including extensions - or 120 days after the date of the Form 486 Notification Letter, whichever is later. Invoices should not be submitted until the invoiced products and services have been delivered and billed, and (for BEAR Forms) the provider has been paid.

OBLIGATION TO PAY NON-DISCOUNT PORTION - Applicants are required to pay the non-discount portion of the cost of the products and/or services. Service providers are required to bill applicants for the non-discount portion. The FCC has stated that requiring applicants to pay their share ensures efficiency and accountability in the program. If you are using a trade-in as part of your non-discount portion, please refer to the SLD web site.

RETAIN DOCUMENTATION - Applicants and service providers must retain documentation, including but not limited to, documents showing:

- compliance with all applicable competitive bidding requirements,
- products and/or services delivered (e.g., customer bills detailing make, model and serial number),
- resources necessary to make effective use of E-rate discounts, including the purchase of equipment such as workstations not eligible for support,
- the specific location of each item of E-rate funded equipment, and
- the applicant has paid the non-discount portion.

These documents must be retained and available for review for 5 years.

FREE SERVICES ADVISORY - Applicants and service providers are prohibited from using the Schools and Libraries Support Mechanism to subsidize the procurement of ineligible or unrequested products and services, or from participating in arrangements that have the effect of providing a discount level to applicants greater than that to which applicants are entitled.

Complete program information is posted to the Schools and Libraries Division (SLD) web site at www.sl.universalservice.org. Information is also available by contacting the SLD Client Service Bureau by e-mail at question@universalservice.org, by fax at 1-888-276-8736 or by phone at 1-888-203-8100.



Anchorage School District
Audio/Visual and Related Services
5530 E. Northern Lights Blvd. #21
Anchorage, Alaska 99504

Phone 742-3772 ***** Fax 742-4779

January 12, 2004

Letter of Appeal
Schools and Libraries Division
Box 125 - Correspondence Unit
80 South Jefferson Road
Whippany, NJ 07981
973-599-6542 Fax
appeals@sl.universalservice.org

Re: Form 471 Application Number: 359931
Funding Year 2003: 07/01/2003 - 6/30/2004
Billed Entity Number: 145553
Applicant's Form Identifier: ASD2003-2004

To Whom It May Concern:

This is an appeal of Funding Request Numbers: 1038607, 1038625, 1038668, 1038678, and 1038687, specifically "Funding Commitment Decision: \$0.00 - 470 Not Filed, Funding Commitment Decision Explanation: The FRN references services that require a posting of a 470 for this Funding Year". For these FRNs the establishing Form 470 is 587650000001170. This 470 is associated with The Anchorage School District Request for Proposal Universal Service Fund Communications Project, Date Issued January 15, 1998.

As originally contemplated that there may be the need for contract extensions, there is specific language in the RFP that allows for voluntary contract extensions with mutual agreement. All prospective proposers on the original contracts were aware of the possibility of voluntary extensions and tailored their bids accordingly, thereby ensuring a fair and equitable procurement process that was consistent with Anchorage School District procurement policy and practice and with state statutes.

Attached is the relevant section from the original RFP that discuss the term of the contracts, which stated that it was for a minimum period of five years. The full RFP is available to be sent to you if needed. Attached are copies of the relevant sections from the RFP that discusses term of contract. Also attached are signed copies of the contract extensions exercised this year from each of the service providers.

Sincerely,

Duane Moran
Supervisor / Audio-Visual Services

Anchorage School Dist
Boniface Mall - 5530 E. Northern Lights Blvd. #21
Anchorage, Alaska 99504
907-742-3770 direct phone line
Moran_Duane@asdk12.org

Attachments (5)

Cc: Jeff Wood Chief Information Officer ASD

V. SCOPE OF SERVICES (Cont'd)

C. ADDITIONAL REQUIREMENTS

1. Proposers must fully examine the scope of services to be provided as a result of this Request for Proposal.
2. During the term of the contract(s) and for a period of seven (7) years after termination or expiration thereof or until all pending disputes are resolved, whichever occurs last, the District, through its authorized representative, shall have the right to audit all records and accounts of the selected Proposer directly related to this provision of services.

D. FEE

The Proposer shall submit with its proposed schedule a fee for each line item as listed on the Proposal Fee Schedule. This shall include, but not be limited to, installation, maintenance, and training. Any and all subcontractor fees shall also be included.

E. TERM OF CONTRACT

The Contract shall continue in effect for a minimum period of five (5) years. However, the Contract shall be suspended on any date on which any federal or state statute or regulation renders the Contract illegal, null or void, or by mutual agreement of the parties involved. The District reserves the right to suspend the Contract with 90 days notice, should the District deem the services unacceptable. The term of the Contract may be extended upon mutual agreement of the District and the selected Proposer.

VI. BONDS

- A. Proposals must be accompanied by a certified or cashier's check, or bid bond in the amount of fifteen thousand dollars (\$15,000). If the bid security does not accompany the proposal on the due date of the proposal, the proposal shall be considered nonresponsive.
- B. Bid Securities shall be issued in the name of the Anchorage School District.

Deane Moran
Anchorage School District



Anchorage School District

Purchasing Department

4919 Van Buren Street

Anchorage, Alaska 99517-3100

Phone (907) 243-6282 Fax (907) 243-5704

January 29, 2003

ACS Communications

ATTN: Vern Craig

600 Telephones Avenue

Anchorage, Alaska 99503

FAX: 364-7336

~~-REVISED-~~

SUBJECT: ANCHORAGE SCHOOL DISTRICT UNIVERSAL
SERVICE FUND COMMUNICATIONS PROJECT

The Anchorage School District would like to extend our contract with your company for the ANCHORAGE SCHOOL DISTRICT UNIVERSAL SERVICE FUND COMMUNICATIONS PROJECT services throughout the School District with a revised expiration date of June 30, 2004.

All terms and conditions as specified in our Request for Proposal dated January 15, 1998 and your proposal dated February 27, 1998 will apply.

If you agree to extend the contract please sign this letter and return by fax: 243-6293 to the Purchasing Department along with a current Certificate of Insurance by January 31, 2003.

We look forward to continuing a successful working relationship with your company.

Pamela K. Chenier

Pamela K. Chenier

Senior Purchasing Agent

PKC/hes

I agree to the above terms and conditions as stated:

[Signature]

Date: 1-31-03